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CHARLES ELMORE CR
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 826.

ED SPROLES ET AL., *Appellants*,

vs.

T. BINFORD ET AL.

STATEMENT OF BASIS OF JURISDICTION

FRANK H. RAWLINGS,
CHAS. I. FRANCIS,
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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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To the Honorable the Supreme Court of the United States:

As a supplement to and in support of a joint motion of all parties in the above proceeding to advance the cause for early hearing before this Court your petitioners desire to submit the following as the basis for the jurisdiction of your Honorable Court in this proceeding:

A. STATUTES.

Section 266 of the Judicial Code as amended by Act of February 13, 1925. (c. 229, Section 1, 43 Stat. 938.)

Section 238 of the Judicial Code as amended by Act of February 13, 1925. (c. 229, Section 1, 43 Stat. 938.)

B. DECREE.

The final decree was rendered by the District Court of the United States for the Southern District of Texas by a statutory three judge court under date of December 31, 1931. The application for appeal was filed and the order allowing the appeal was entered March 19th, 1932. (Record p. 280) The case was docketed in the Supreme Court on March 25, 1932, being Cause No. 826 upon the docket of this Court.

C. RULINGS.

This proceeding is an appeal from a decision of the District Court of the United States for the Southern District of Texas under decree dated December 31, 1931, opinion filed Jan. 27, 1932. The complaint below alleged that certain provisions of H. B. 336, Chapter 282, of the Acts of the Regular Session of the Forty-second Legislature of Texas, and particularly the provisions of Section 5 of said Act, were in violation of the Fourteenth Amendment to the Constitution of the United States. The provisions attacked were statutory provisions limiting the net load that may be transported by motor trucks on public highways of the State of Texas without making similar requirements and limitations as to other vehicles and classes of traffic, and suit was brought under the provisions of Section 266 of the Judicial Code as amended, Act of February 13, 1925, (c. 229, 43 Stat. 938) and was heard and determined by three judges of whom one was a circuit judge of the United States Circuit Court of Appeals for the Fifth Circuit. The decree of the court denied the injunction and dismissed the petition for want of equity under order signed by all

three judges. At the time the decree was entered the trial court granted a temporary injunction restraining appellees from enforcing the provisions of Section 5 of the law in question pending appeal to the Supreme Court, which injunction by its terms expires June 6, 1932.

D. CASES.

National Fire Insurance Company of Hartford v. Joseph B. Thompson, *et al.*, 281 U. S. 331.

Michigan Public Utilities Commission, *et al.* v. Coral W. Duke, 266 U. S. 570.

Respectfully submitted,

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